

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 124

Introduced by Senator Oropeza

February 4, 2009

An act to amend Section 42407 of, and to add Chapter 3.4 (commencing with Section 39640) to Part 2 of Division 26 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 124, as amended, Oropeza. Air pollution: schoolbus idling and idling at schools.

Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law also designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to identify toxic air contaminants that are emitted into the ambient air of the state, and requires the state board to establish toxic control measures for toxic air contaminants. Existing regulations adopted by the state board establish toxic control measures to limit schoolbus idling and idling at schools. Those existing regulations require drivers of schoolbuses, transit buses, school pupil activity buses, youth buses, general public paratransit vehicles, as those terms are defined in the regulations, and specified transit buses and commercial motor vehicles to, among other things, turn off the bus or vehicle engine upon stopping at or within 100 feet of a school, prohibits those drivers from turning the bus or vehicle engine on more than 30 seconds before beginning to depart from a school or within 100 feet of a school, and prohibits those drivers from causing the bus or vehicle to idle for more than 5 consecutive minutes

or 5 aggregate minutes in any one hour at any location greater than 100 feet from a school. Those existing regulations provide that any violation of those requirements subjects the driver or the motor carrier to a minimum civil penalty of \$100 *and to criminal penalties*. Those existing regulations authorize the state board, peace officers and the authorized representatives of their law enforcement agencies, and air quality management districts and air pollution control districts, to enforce those provisions.

~~Existing law makes any violation of nonvehicular air pollution control laws, or any rule, regulation, permit, or order of the state board, or an air quality management district or an air pollution control district, a misdemeanor. Existing law also subjects any person who negligently, knowingly, or willfully and intentionally emits air contaminants in violation of nonvehicular air pollution control laws or any rule, regulation, permit, or order of the state board or of a district pertaining to emission regulations or limitations to various civil and administrative penalties, and makes those provisions applicable to diesel-powered bus idling.~~

~~This bill would codify those regulations, and would make any violation of the provisions of the bill subject to those civil and administrative penalties, but would specify that the minimum civil penalty that would be imposed for a violation would be \$100 and that specified violations would also be subject to criminal penalties to the maximum extent provided by law.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.4 (commencing with Section 39640)
2 is added to Part 2 of Division 26 of the Health and Safety Code,
3 to read:
4
5 CHAPTER 3.4. SCHOOLBUS IDLING AND IDLING AT SCHOOLS
6
7 39640. The purpose of this chapter is to reduce public exposure,
8 especially schoolage children's exposure, to diesel exhaust
9 particulate matter and other toxic air contaminants by limiting
10 unnecessary idling of specified vehicular sources.

1 39641. (a) A driver of a schoolbus, school pupil activity bus,
2 youth bus, or general public paratransit vehicle shall comply with
3 both of the following:

4 (1) Turn off the bus or vehicle engine upon stopping at a school
5 or within 100 feet of a school, and do not turn the bus or vehicle
6 engine on more than 30 seconds before beginning to depart from
7 a school or from within 100 feet of a school.

8 (2) Do not cause or allow a bus or vehicle to idle at a single
9 location greater than 100 feet from a school for either of the
10 following:

11 (A) More than five consecutive minutes.

12 (B) A period or periods aggregating more than five minutes in
13 any one hour.

14 (b) A driver of a transit bus or of a commercial motor vehicle
15 not described in subdivision (a) shall comply with both of the
16 following:

17 (1) Turn off the bus or vehicle engine upon stopping at a school
18 and do not turn the bus or vehicle engine on more than 30 seconds
19 before beginning to depart from a school.

20 (2) Do not cause or allow a bus or vehicle to idle at any location
21 within 100 feet of, but not at, a school for either of the following:

22 (A) More than five consecutive minutes.

23 (B) A period or periods aggregating more than five minutes in
24 any one hour.

25 (c) A motor carrier of a schoolbus, school pupil activity bus,
26 youth bus, or general public paratransit vehicle shall ensure all of
27 the following:

28 (1) The driver of the bus or vehicle, upon initial employment
29 and at least once per year thereafter, is informed of the
30 requirements described in subdivision (a), and of the consequences,
31 under this chapter and the motor carrier's terms of employment,
32 of not complying with those requirements.

33 (2) All complaints of noncompliance with, and enforcement
34 actions related to, the requirements of subdivision (a) are reviewed
35 and remedial action is taken as necessary.

36 (3) Records of paragraphs (1) and (2) are kept for at least three
37 years and made available or accessible to enforcement personnel
38 within three business days of their request.

(d) A motor carrier of a transit bus or of a commercial motor vehicle not described in subdivision (a) shall ensure all of the following:

(1) The driver of the bus or vehicle, upon initial employment and at least once per year thereafter, is informed of the requirements described in subdivision (b), and of the consequences, under this chapter and the motor carrier's terms of employment, of not complying with those requirements.

(2) All complaints of noncompliance with, and enforcement actions related to, the requirements of subdivision (b) are reviewed and remedial action is taken as necessary.

(3) Records of paragraphs (1) and (2) are kept for at least three years and made available or accessible to enforcement personnel within three business days of their request.

39642. This chapter applies to the operation of every schoolbus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, and other commercial motor vehicle. This chapter does not apply for the period during which:

(a) Idling is necessary while stopped at any of the following times:

(1) For an official traffic control device.

(2) For an official traffic control signal.

(3) For traffic conditions over which the driver has no control, including, but not limited to, being stopped in a line of traffic.

(4) At the direction of a peace officer.

(b) Idling is necessary to ascertain that the schoolbus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, or other commercial motor vehicle is in safe operating condition and equipped as required by other provisions of law, and all equipment is in good working order, either as part of the driver's daily vehicle inspection, or as otherwise needed.

(c) Idling is necessary for testing, servicing, repairing, or diagnostic purposes.

(d) Idling is necessary, for a period not to exceed three to five minutes, based on the recommendation of the manufacturer, to cool down a turbo-charged diesel engine before turning the engine off.

(e) Idling is necessary to accomplish work for which the vehicle was designed, other than transporting passengers, including, but not limited to:

1 (1) Collection of solid waste or recyclable material by an entity
2 authorized by contract, license, or permit by a school or local
3 government.

4 (2) Controlling cargo temperature.

5 (3) Operating a lift, crane, pump, drill, hoist, mixer, or other
6 auxiliary equipment other than a heater or air-conditioner.

7 (f) Idling is necessary to operate:

8 (1) A lift or other piece of equipment designed to ensure safe
9 loading, unloading, or transport of persons with disabilities.

10 (2) A heater or an air-conditioner of a bus or vehicle that has,
11 or will have, one or more children with exceptional needs aboard.

12 (g) Idling is necessary to operate defrosters, heaters,
13 air-conditioners, or other equipment to ensure the safety or health
14 of the driver or passengers, or as otherwise required by federal or
15 state motor carrier safety regulations.

16 (h) Idling is necessary solely to recharge a battery or other
17 energy storage unit of a hybrid electric bus or vehicle.

18 39643. This chapter does not allow idling in excess of other
19 applicable law, including, but not limited to:

20 (a) Section 1226 of Title 13 of the California Code of
21 Regulations.

22 (b) Section 22515 of the Vehicle Code.

23 (c) Any local ordinance or requirement that is as stringent as,
24 or more stringent than, this chapter.

25 39644. This chapter may be enforced by the state board, peace
26 officers, as defined in Chapter 4.5 (commencing with Section 830)
27 of Title 3 of the Penal Code, and their respective law enforcement
28 agencies' authorized representatives, and the *air* districts. ~~Any~~
29 ~~violation of the provisions of this chapter is subject to the penalties~~
30 ~~described in Article 3 (commencing with Section 42400) of Chapter~~
31 ~~4 of Part 4. Notwithstanding those provisions, a civil penalty~~
32 ~~assessed thereunder for a first violation of any provision of this~~
33 ~~chapter shall be not less than one hundred dollars (\$100). For any~~
34 ~~violation of subdivision (c) or (d) of Section 39641, and for any~~
35 ~~second or subsequent violation of any other provision of this~~
36 ~~chapter, a violator shall be subject to both that civil penalty and~~
37 ~~to criminal penalties to the maximum extent provided by law. A~~
38 ~~violation of any provision of Section 39641 is subject to a minimum~~
39 ~~civil penalty of one hundred dollars (\$100) and to criminal~~

1 *penalties as provided in Article 3 (commencing with Section 42400)*
2 *of Chapter 4 of Part 4.*

3 39645. For the purposes of this chapter, the following terms
4 have the following meanings:

5 (a) “Children with exceptional needs” means children meeting
6 eligibility criteria described in Section 56026 of the Education
7 Code.

8 (b) “Commercial motor vehicle” means any vehicle or
9 combination of vehicles as defined in subdivision (b) of Section
10 15210 of the Vehicle Code, and any other motor truck with a gross
11 vehicle weight rating of 10,001 pounds or more, except either of
12 the following:

13 (1) A zero-emission vehicle.

14 (2) A pickup truck, as defined in Section 471 of the Vehicle
15 Code.

16 (c) “Driver” means any person who drives or is in actual
17 physical control of a vehicle.

18 (d) “General public paratransit vehicle” means any motor vehicle
19 as defined in Section 336 of the Vehicle Code, other than a
20 zero-emission general public paratransit vehicle, that is transporting
21 school pupils in kindergarten and grades 1 to 12, inclusive, to or
22 from public or private schools, or public or private school activities.

23 (e) “Gross vehicle weight rating” means the weight specified
24 by the manufacturer as the loaded weight of a single vehicle.

25 (f) “Hybrid electric bus or vehicle” means any schoolbus, transit
26 bus, school pupil activity bus, youth bus, general public paratransit
27 vehicle, or other commercial motor vehicle equipped with at least
28 the following two sources of motive energy on board:

29 (1) An electric drive motor that must be used to partially or fully
30 drive the bus or vehicle wheels.

31 (2) One of the following:

32 (A) An internal combustion engine.

33 (B) A turbine.

34 (C) A fuel cell.

35 (g) “Idling” means the engine of a bus or vehicle is running
36 while the bus or vehicle is stationary.

37 (h) “Motor carrier” means the registered owner, lessee, licensee,
38 school district superintendent, or bailee of any schoolbus, transit
39 bus, school pupil activity bus, youth bus, general public paratransit
40 vehicle, or other commercial motor vehicle who operates or directs

1 the operation of any such bus or vehicle on either a for-hire or
2 not-for-hire basis.

3 (i) “Motor truck” means a motor vehicle designed, used, or
4 maintained primarily for the transportation of property.

5 (j) “Official traffic control device” means any sign, signal,
6 marking or device, consistent with Section 21400 of the Vehicle
7 Code, placed or erected by authority of a public body or official
8 having jurisdiction, for the purpose of regulating, warning, or
9 guiding traffic, but does not include islands, curbs, traffic barriers,
10 speed humps, speed bumps, or other roadway design features.

11 (k) “Official traffic control signal” means any device that is
12 manually, electrically, or mechanically operated, by which traffic
13 is alternately directed to stop and proceed and that is erected by
14 authority of a public body or official having jurisdiction.

15 (l) “School” means any public or private school used for the
16 purposes of education and instruction of more than 12 school pupils
17 in kindergarten and grades 1 to 12, inclusive, but does not include
18 any private school in which education and instruction is primarily
19 conducted in private homes. “School” includes any building or
20 structure, playground, athletic field, or other area of school
21 property. The term excludes unimproved school property.

22 (m) “Schoolbus” means any schoolbus defined in Section 545
23 of the Vehicle Code, except a zero-emission schoolbus.

24 (n) “School pupil activity bus” means any bus defined in Section
25 546 of the Vehicle Code, except a zero-emission school pupil
26 activity bus.

27 (o) “Transit bus” means any bus defined in Section 642 of the
28 Vehicle Code, except a zero-emission transit bus.

29 (p) “Youth bus” means any bus defined in Section 680 of the
30 Vehicle Code, except a zero-emission youth bus.

31 (q) A “zero-emission schoolbus, transit bus, school pupil activity
32 bus, youth bus, general public paratransit vehicle, or other
33 commercial motor vehicle” means any bus or vehicle certified to
34 zero-emission standards by the state board.

35 SEC. 2. Section 42407 of the Health and Safety Code is
36 amended to read:

1 42407. Except as provided in Chapter 3.4 (commencing with
2 Section 39640) of Part 2 and Sections 40720 and 42403.5, this
3 article is not applicable to vehicular sources.

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